

## **REMARKS**

Applicants thank the Examiner for thoroughly reviewing the present application.

The Examiner objected to the drawings under 37 C.F.R. 1.83(a).

The Examiner rejected claims 21 – 24 and 27 – 32 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner rejected claims 1 – 5, 7 – 12, 15, 16, and 21 – 31 under 35 U.S.C. §102(b) as allegedly being anticipated by Wellmann DE ‘198, cited by applicant.

The Examiner rejected claims 1 – 3, 14 – 16, 21 and 25 under 35 U.S.C. §102(b) as allegedly being anticipated by Madsen ‘581.

The Examiner rejected claim 32 under 35 U.S.C. §103(a) as allegedly being unpatentable over the references as applied to claim 1 above, and further in view of Brown et al. ‘071.

The Examiner rejected claims 1 – 5, 11 – 13, 16 and 25 under 35 U.S.C. §103(a) as allegedly being unpatentable over Gits ‘755 in view of LaJoie et al. ‘205.

The Examiner rejected claim 6 under 35 U.S.C. §103(a) as allegedly being unpatentable over the references as applied to claim 5 above, and further in view of Yager ‘646.

The Examiner rejected claims 1, 2, and 17 – 20 under 35 U.S.C. §103(a) as allegedly being unpatentable over Atkins et al. ‘570.

Applicant respectfully addresses the objection to the drawings and respectfully traverses the §112, §102(b) and §103(a) rejections with the following arguments.

### **In the Drawings and the Specification:**

The Examiner objected to the drawings under 37 C.F.R. 1.83(a) for being rough and blurred and having some of the reference numerals not corresponding with the description found in the specification.

Applicant has respectfully requested that the Examiner replace Fig. 3 with Replacement Sheet 1, Fig. 9 with Replacement Sheet 2, and Fig. 10 with Replacement Sheet 3. Additionally, Applicant has amended several paragraphs in the specification found on pages 9, 13 and 18. The Figures have been replaced to reduce the roughness and blurring and to re-label elements to better correspond with the specification. Particularly, element 34 was deleted in Figure 3 with Replacement Sheet 1, as it does not appear in the specification. Rim 523 was moved in Figure 9 with replacement Sheet 2 to more precisely indicate the element. Support for this can be found on the original application on pages 12 – 14. Element 538 was also deleted in Figure 10 with Replacement Sheet 3, as it does not appear in the specification. Finally, side wall 530 was labeled in Figure 10. Support for side wall 530 may be found on pages 12 and 14 of the original specification.

Additionally, applicant as amended the paragraphs in the specification to correspond more clearly to the reference numerals in the Figures. Particularly, Applicant has amended the paragraph on page 9, lines 9 – 17 to describe that vent path 140 and vent aperture 144 are shown in Figure 4B, which clearly included these elements as originally filed. Applicant has also amended the paragraph on page 9, lines 26 – 32 to describe that vent aperture 244 is shown labeled in Figure 6. Finally, Applicant has corrected the numerical labeling in the paragraphs on page 13, lines 4 – 8, page 18, lines 9 – 14, page 18, lines 16 – 22, and on page 18, lines 24 – 27. Applicant asserts that no new matter has been added to the application.

Finally, Applicant has amended the paragraph on page 13, lines 4 – 7 to clarify that the “stepped profile of the vent device is defined by a first stepped portion 760 for locating on a neck of the bottle, and a second stepped portion 761 for locating in the neck of the bottle.” Additionally, Figure 13 has been amended with Replacement sheet 4, adding elements 760 and 761 to point to the first and second stepped portions of the stepped profile of the vent device. These changes add no new matter and have only been amended to better clarify the structure of the vent device that was clearly shown in Figure 13 of the original application. Basis can be found in the originally filed drawings, clearly showing a stepped profile vent device having two stepped portions. Further, the language added to the specification also finds basis in the original application claims 28 and 29 which refer to the first and second stepped portions of the stepped profile as amended in the specification.

With these corrections, Applicant asserts that the drawings sheets are now in compliance with 37 C.F.R. 1.121(d).

### **35 U.S.C. §112, Second Paragraph**

The Examiner rejected claims 21 – 24 and 27 – 32 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner first alleges that claim 21 is confusing because there isn't a bottle assembly of claim 1. This rejection is no longer relevant because Applicant has canceled claims 21 – 23.

The Examiner next alleges that there is insufficient antecedent basis for “the one way valve” in claims 24 and 32. Applicant has amended both claims 24 and 32 to comply with 35 U.S.C. §112, second paragraph. Claims 24 and 32 now read “**a** one way valve.”

The Examiner finally alleges that it isn't clear what the relationship of the annular outer wall of claim 27 is to the outer wall of claim 26. This rejection is no longer relevant because Applicant has canceled claims 26 – 29.

Applicant has also amended claims 30 and 31 so that they only depend from independent claim 1.

Applicant therefore respectfully maintains that the remaining claims 24 and 30 – 32 have antecedent basis and are in condition for allowance.

**35 U.S.C. §102(b)**

The Examiner rejected claims 1 – 5, 7 – 12, 15, 16, and 21 – 31 under 35 U.S.C. §102(b) as allegedly being anticipated by Wellmann DE ‘198 (hereinafter Wellmann), cited by applicant. Applicant’s respectfully maintain that currently amended claims 1 and 2 are not anticipated by Wellmann because Wellmann does not teach every feature of the claims.

Amongst other features in the newly amended claims 1 and 2, the claims include the feature that “the vent inlet and aperture comprises a groove in the first step portion.” The fact that the venting neck comprises a groove rather than a borehole or tube means that the vent inlet is far easier to clean. Support for this amendment can be found throughout the specification, particularly on page 17, third paragraph where it is noted that a grooved inlet is “very easy to clean, even by dishwasher, since it is open on one side.” Because one of the invention’s major applications is bottles for babies, this is a very important and novel feature. Hygiene is extremely imperative for babies and baby products, and therefore the ease by which those products may be cleaned is a very important feature.

Wellmann in no way suggests providing a groove as the vent inlet. Indeed, it would not even be possible for Willmann to be adapted to the current invention. This is because the inlet in Willmann forms part of tube (13) which is essential for connection to one way valve (17) and therefore could not constitute a groove.

Therefore, Applicant maintains that claims 1 and 2 are not anticipated by Wellmann and are in condition for allowance. Because claims 5, 8 – 12, 15, 16, 24, 25, 30 and 31 depend from claims 1 and 2, Applicant likewise maintains that Wellman does not anticipate these claims, and that they are likewise in condition for allowance.

The Examiner rejected claims 1 – 3, 14 – 16, 21 and 25 under 35 U.S.C. §102(b) as

allegedly being anticipated by Madsen '581 (hereinafter Madsen). Applicant maintains that Madsen does not anticipate claims 1 and 2 because Madsen does not teach every feature of claims 1 and 2. Particularly, Madsen does not teach an apparatus having a “vent inlet and aperture [comprising] a groove in the first step portion.” As described hereinabove, this is an important aspect of Applicant’s invention because it allows the vent to be cleaned more easily. Noting that Applicant has canceled claims 3 and 21, Applicant maintains that Madsen does not anticipate claims 14 – 16 and 25, because these claims depend from claims 1 and 2. Applicant therefore respectfully maintains that claims 14 – 16 and 25 are in condition for allowance.

**35 U.S.C. § 103(a)**

The Examiner rejected claim 32 under 35 U.S.C. §103(a) as allegedly being unpatentable over the references as applied to claim 1 above, and further in view of Brown et al. '071. Applicant respectfully maintains that independent claim 1 is now in condition for allowance. Since claim 32 is dependent on claim 1, Applicant likewise maintains that claim 32 is in condition for allowance.

The Examiner rejected claims 1 – 5, 11 – 13, 16 and 25 under 35 U.S.C. §103(a) as allegedly being unpatentable over Gits '755 (hereinafter “Gits”) in view of LaJoie et al. '205 (hereinafter “LaJoie”). The Examiner specifically points out that Gits includes a vent at 14 in the neck of the bottle. The Examiner states “to have provided a one-way valve to prevent leakage would have been obvious in view of the integral vent with a valve taught by LaJoie.” However, neither Gits nor LaJoie include each feature claimed by Applicant’s amended independent claims 1 and 2. For example, neither Gits nor LaJoie disclose that “the vent inlet and aperture comprises a groove in the first step portion.” Instead, in Gits the inlet and aperture comprise a fully bored hole that would be difficult to clean by typical means. Thus, Gits and LaJoie do not teach every element of Applicant’s independent claims 1 and 2. It would not have been obvious to one skilled in the art to achieve the novel features of Applicant’s invention by combining Gits with LaJoie. Thus, Applicant respectfully contends that claims 1 and 2 are not unpatentable over Gits in view of LaJoie and that these claims are in condition for allowance. Noting that Applicant has canceled claims 3 and 4, because claims 5, 11 – 13, 16 and 25 depend from claims 1 and 2, Applicant also maintains that claims 5, 11 – 13, 16 and 25 are not unpatentable over Gits in view of LaJoie and that these claims are in condition for allowance.

The Examiner rejected claim 6 under 35 U.S.C. §103(a) as allegedly being unpatentable

over the references as applied to claim 5 above, and further in view of Yager '646. Applicant respectfully maintains that independent claim 2 is now in condition for allowance. Since claim 6 is dependent on claim 2, Applicant likewise maintains that claim 6 is in condition for allowance.

The Examiner rejected claims 1, 2, and 17 – 20 under 35 U.S.C. §103(a) as allegedly being unpatentable over Atkins et al. '570 (hereinafter 'Atkins'). The Examiner specifically points to Figures 1 – 3 of Atkins, which shows a fluid valve and vent opening and closing together. Atkins discloses a diaphragm with two portions which act to open and close the air flow into a drinking vessel, but does not disclose a vent device substantially covered by a closure, or a vent aperture located within the vent device as required by claims 1 and 2 of the present invention. Further, as already discussed hereinabove, Atkins does not disclose that “the vent inlet and aperture comprises a groove in the first step portion.” One having ordinary skill in the art would not be enabled to practice the claimed invention, nor would these missing elements be obvious to one having ordinary skill in the art. Therefore, Applicant respectfully contends that claims 1 and 2 are not unpatentable over Atkins and that these claims are in condition for allowance. Likewise, because claims 17 – 20 depend from claim 2, Applicant also respectfully maintains that claims 17 – 20 are not unpatentable over Atkins and that these claims are in condition for allowance.



### **CONCLUSION**

Based on the preceding arguments, Applicant respectfully believes that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicant invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 19-0153.

Date: December 8, 2008

/Arlen L. Olsen/

Arlen L. Olsen  
Registration No. 37,543  
Customer No. 05409

Schmeiser, Olsen & Watts  
22 Century Hill Drive, Suite 302  
Latham, New York 12110  
Tel. (518) 220-1850  
Email: aolsen@iplawusa.com